



November 26, 2002

Ms. Lillian Guillen Graham
Assistant City Attorney
Office of the City Attorney
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2002-6770

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 172744.

The Mesquite Police Department (the "department") received a request for all police records since January 2002 that reference a particular address. You state that you will release some information but claim that portions of the information you have submitted to this office are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses statutory confidentiality provisions such as section 58.007 of the Family Code, which provides that juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential. Section 58.007 states in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). The information you have submitted as Attachment #2 involves allegations of juvenile conduct in violation of penal statutes that occurred after September 1, 1997. *See* Fam. Code § 51.02(2) (providing that in title 3 of Family Code, "child" means person who is ten years of age or older and under seventeen years of age). Thus, this information is subject to section 58.007. It does not appear that any of the exceptions in section 58.007 apply; therefore, this information is confidential in its entirety in accordance with section 58.007(c) of the Family Code and must be withheld from disclosure pursuant to section 552.101 of the Government Code.

You also assert that a portion of the information submitted as Attachment #3 is confidential. Section 552.101 also encompasses the confidentiality provision found in chapter 772 of the Health and Safety Code. Chapter 772 authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You contend that the originating telephone number and address of a 9-1-1 caller contained in Attachment #3 are confidential under chapter 772. To the extent the originating address and telephone number of this 9-1-1 caller was supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code, the address and telephone number must be withheld from disclosure under section 552.101 of the Government Code as information deemed confidential by statute. However, if the telephone number and address were not provided by a 9-1-1 service supplier to a 9-1-1 district subject to section 772.118, 772.218, or 772.318, the address and telephone number must be released.

Finally, you assert that motor vehicle record information contained in Attachment #4 is excepted from disclosure pursuant to section 552.130. This section provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Pursuant to section 552.130, the department must withhold the motor vehicle record information that we have marked to the extent that it reflects information in records that were issued by an agency of the State of Texas. If any of the marked information was issued by a state other than Texas, it may not be withheld under section 552.130 and must be released.

In summary, pursuant to section 552.101 of the Government Code, the department must withhold Attachment #2 as information made confidential by law. The telephone number and address of the 9-1-1 caller contained in Attachment #3 must be withheld under section 552.101 to the extent they were supplied by a 9-1-1 service supplier to a 9-1-1 district that is subject to section 772.118, 772.218, or 772.318 of the Health and Safety Code. In addition, we have marked motor vehicle record information in Attachment #4 that must be withheld under section 552.130 to the extent the records were issued by an agency of this state. All other information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

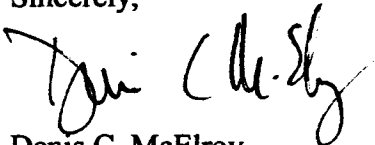
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

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Enc. Submitted documents

**c: Ms. Lori A. Roy
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(w/o enclosures)**